IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 260 OF 2005

IN

SUM. SUIT NO. 505 OF 2000

Mahabali B. Shetty ... Plaintiff

vs.

Suresh Himatlal Shah ... Defendant.

Mr. H. M. Pandya for plaintiff.

Deepak Luha for defendant.

CORAM : S.U. KAMDAR, J.

DATED : 25TH OCTOBER, 2005.

P.C.

. The present suit is filed for recovery of a sum of Rs. 1 lac based on two dishonoured cheques which are Exhibit A and B to the plaint. The defence raised by the defendant is that the said cheques were issued on 15.8.2001 whereas in para 2 it has been stated that the loan is given on 15.2.2002. The defence raised is totally bogus. The cheques themselves indicate that though the original date which was put was 15.8.2001 the defendant himself has deleted the said date and has

put a fresh date 15.8.2002 and signed the same. There is no dispute as to the execution of the said cheque and/or signature appearing on the date. Thus, the defence raised that the cheques are issued in 2001 is bogus and totally frivolous. The second defence raised is that the cheque is not issued in favour of M.B. Shetty but issued to PIL as indicated by the counter foil. It is not possible to accept the aforesaid contention because the person can put some name on the counter foil and put anybody's name on the cheque. In that view of the matter, there shall be a decree in favour of the plaintiff and against the defendant as prayed. The rate of interest will be at the rate of 18% from the date of the suit till payment and/or realisation. Suit decreed accordingly. In view of the disposal of the suit, the summons for judgment does not survive. The same is dismissed as infructuous. No order as to costs.